

Practitioner's Docket No. 47399-0037 (DOV-18-US)**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Donald R. Stevenson

Application No.: 10 / 709,578

Group No.: 1714

Filed: 05/14/2004

Examiner:

Sanders, Kriellion Antionette

For: Phenol-Free Phosphites

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**NOTICE OF APPEAL FROM THE PRIMARY EXAMINER
 TO THE BOARD OF PATENT APPEALS AND INTERFERENCES
 (37 C.F.R. § 41.31)**

NOTE: An appeal may be based on one rejection in a prior application and one rejection in a continuing application. 62 Fed. Reg. 53,131, at 53,167; 1203 O.G. 63, at 93 (Oct. 10, 1997).

NOTE: There is no requirement for a notice of appeal to: (1) be signed; or (2) identify the appealed claims. 62 Fed. Reg. 53,131, at 53,167; 1203 O.G. 63, at 94 (Oct. 10, 1997).

NOTE: An applicant wishes to take advantage of the pre-appeal brief review by a panel of examiners should submit Form 9-6.3 (PTO/SB/33) along with the Notice of Appeal. A pre-appeal request for review filed after the date of receipt of the notice of appeal will be dismissed as untimely. See O.G. July 12, 2005.

☒ Applicant hereby appeals to the Board from the decision of the Primary Examiner, mailed 04/05/2007, for a second time rejecting claims See Page 4 for rejected claims.

NOTE: In an ex parte reexamination filed after November 29, 1999, an appeal may be taken only after the final rejection of claims. MPEP § 2273 (8th Edition, Rev. 2)

☐ Patent Owner hereby appeals to the Board from the decision of the Examiner, mailed _____, finally rejecting claims _____.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
 Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING X Electronically transmitted through Private Pair portal to the Patent & Trademark

☐ deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10*

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☐ facsimile transmitted to the Patent and Trademark Office, (571) 273-8300

Date: October 4, 2007


 Signature

Louis F. Wagner

(type or print name of person certifying)

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

The item(s) checked below are appropriate:

1. STATUS OF APPLICANT

This application is on behalf of

☒ other than a small entity.

☐ a small entity.

A statement

☐ is attached.

☐ was already filed on _____

2. FEE FOR FILING NOTICE OF APPEAL

Pursuant to 37 C.F.R. § 41.20(b)(1), the fee for filing the Notice of Appeal is:

☐ small entity

\$250.00

☒ other than a small entity

~~\$500.00~~ \$510.00

Notice of Appeal fee due \$ 510.00

3. EXTENSION OF TERM

NOTE: 37 C.F.R. § 1.704(b) ". . . an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

NOTE: The time periods set forth in 37 C.F.R. § 41.31 are subject to the provision of § 1.136 for patent applications. 37 C.F.R. § 41.31(d). (But see 37 C.F.R. § 1.645 for extension of time in interference proceedings and 37 C.F.R. § 1.550(c) for extension of time in reexamination proceedings).

(complete (a) or (b), as applicable)

☒ The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

WARNING: The provisions of 37 CFR § 1.136 do not apply in an ex parte reexamination. Any requests for extension must be made pursuant to 37 CFR 1.550(c).

(a) ☐ Applicant petitions for an extension of time under 37 C.F.R. § 1.136 (fees: 37 C.F.R. § 1.17(a)(1)-(4)) for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input type="checkbox"/> one month	\$ 120.00	\$ 60.00
<input type="checkbox"/> two months	\$ 450.00	\$ 225.00
<input checked="" type="checkbox"/> three months	\$ 1,020.00	\$ 510.00
<input type="checkbox"/> four months	\$ 1,590.00	\$ 795.00
<input type="checkbox"/> five months	\$ 2,160.00	\$ 1,080.00

Fee: \$ 1,020.00

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☒ An extension for 3 months has already been secured. The fee paid therefor of \$ 1,020.00 is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ 30.00

or

- (b) ☐ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

4. TOTAL FEE DUE

The total fee due is:

Notice of Appeal fee \$ 510.00

Extension fee (if any) \$ 30.00

TOTAL FEE DUE \$ 540.00

5. FEE PAYMENT

☐ Attached is a ☐ check ☐ money order in the amount of \$ _____

☒ Authorization is hereby made to charge the amount of \$ 540.00

☐ to Deposit Account No. _____

☒ to Credit card as shown on the attached credit card information authorization form PTO-2038. American Express Card being used for electronic filing fee.

WARNING: Credit card information should **not** be included on this form as it may become public.

☒ Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

☐ A duplicate of this paper is attached.

6. FEE DEFICIENCY

NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, 1065 O.G. 31-33.

☒ If any additional extension and/or fee is required,

AND/OR

☒ If any additional fee for claims is required, charge:

☒ Deposit Account No. 50-0983

☐ Credit card as shown on the attached credit card information authorization form PTO-2038.

From page 1:
Rejecting claims 7-8, 10-15, 17-21 & 25-26. Claims 1-6 appear to be in a condition for allowance, but if rejected from a part of the appealed claims.

Date: October 4, 2007

Reg. No.: 35,730

Customer No.: 24115


SIGNATURE OF PRACTITIONER

Louis F. Wagner

(type or print name of practitioner)

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(Notice of Appeal from the Primary Examiner to Board [9-6]—page 4 of 5)